

Message Text

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12

ACTION EA-09

INFO OCT-01 ISO-00 L-03 SS-15 NSC-05 EB-07 INR-07 PRS-01

SSO-00 NSCE-00 INRE-00 /048 W
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O 290620Z FEB 76

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC NIACT IMMEDIATE 7270

C O N F I D E N T I A L TOKYO 2973

E.O. 11652 GDS

TAGS: PINT, JA, US

SUBJ: LOCKHEED SCANDAL

REF: STATE 049273

1. EMBASSY WOULD APPRECIATE CLAIRIFICATION WHETHER DEPARTMENT INTENDED IN RESPONDING TO JAPANESE EMBASSY'S NOTE VERBALE AS INDICATED IN WORDING OF REFTEL PARA 1 TO MAKE ITS QTE OBJECTION UNQTE TO APPEARANCE BEFORE DIET COMMITTEE OF ONI WHO IS IN JAPAN AS WELL AS KOTCHI AND KATAYAMA) WHOE ARE IN U.S. CONDITONAL UPON ONI'S WILLINGNESS TO APPEAR. (ACCORDING TO FOREIGN OFFICE, TWO SEPARATE NOTES VERBALE WERE DELIVERED BY JAPANESE EMBASSY, ONE RELATING TO ONI, THE OTHER RELATING TO KOTCHIAN AND KATAYAMA.)

2. AS PREVIOUSLY REPORTED, FOREIGN OFFICE HAS INFORMED EMBASSY THAT, ACCRODING TO LONG-STANDING INTERPRETATION OF LAW GOV-ERNING DIET SUMMONING OF WITNESSES, FOREIGN NATIONALS RESIDENT OR OTHERWISE PRESENT IN JAPAN ARE SUBJECT TO THAT LAW. IN FOREIGN OFFICE VIEW, IN CASE OF ONI REQUEST FOR USG QTE CONCURRENCE UNQTE WAS NOT LEGALLY NECESSARY AND WAS MADE ONLY TO CONFORM TO THE WORDING OF THE BUDGET COMMITTEE'S REQUEST TO THE GOJ. WE UNDERSTAND THAT ACCORDINGLY DIET SECREATARIAT RIAT ON FEBRUARY 28 SERVED SUMMONS ON ONI REQUIRING HIS APPEARANCE AT MARCH 1 HEARING.

3. ALTHOUGH COUNSEL RETAINED BY ONI APPARENTLY HAS INFORMED HIM THAT HE IS SUBJECT TO DIET SUMMONS, ONI HAS HEARD THROUGH LOCKHEED CONTACTS IN U.S. THAT DEPARTMENT DID NOT OBJECT
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PROVIDED RPT PROVIDED HE WISHED TO APPEAR VOLUNTARILY.

FOREIGN OFFICE HAS INFORMED EMBASSY THAT ONI HAS STATED TO
DIET SECRETARIATE THAT BEFORE DECIDING WHETHER TO APPEAR ON MARCH
1. HE WISHED TO CONSULT HIS LAWYER AND MAY CONSULT EMBASSY.
FOREIGN OFFICE THEREFORE HAS EXPRESSED CONCERN THAT IN EVENT
ONI CONTACTS EMBASSY WE STATE ONLY THAT DEPARTMENT HAS
INFORMED GOJ THAT IT HAS OBJECTION TO DIET REQUESTING
(OR ORDERING) ONI'S APPEARANCE.

4. SINCE ONI MAY CONTACT EMBASSY PRIOR TO TIME HE REQUIRED
TO APPEAR BEFORE DIET COMMITTEE ON MARCH 1, EMBASSY WOULD APPRECIATE
SOONEST CLARIFICATION REQUESTED PARA 1 ABOVE. IF DEPARTMENT DID
INTEND TO MAKE ITS QTE NO OBJECTION UNQTE CONDITIONAL, HOW SHOULD
EMBASSY RESPOND IF ONI ASKS WHETHER, IN DEPARTMENT'S VIEW,
HE DOES NOT HAVE TO APPEAR INVOLUNTARILY, I.E., IN RESPONSE
TO A SUMMONS CARRYING PENALTIES FOR NON-APPEARANCE.
SHOESMITH

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